

The purchase of telecommunications cannot be made tax-free as being a purchase for resale unless the purchaser possesses a valid Telecommunications Tax resale number. See 35 ILCS 630/8. (This is a GIL.)

December 20, 2005

Dear Xxxxx:

This letter is in response to your letter dated May 18, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Below is a summary of what occurred regarding ABC and XYZ, regarding Illinois Telecommunication Taxes billed by ABC on invoices.

ABC originally remitted to the Illinois Department of Revenue nine months of Illinois Telecommunication Taxes, and Telecommunications Infrastructure Maintenance Fees that were paid by XYZ to ABC. XYZ, then short paid a ABC current monthly invoice charges deducting from the invoice all taxes paid for the nine prior months. XYZ, then issued Resale Certificates and back dated the certificates. XYZ has since paid back all the Illinois and CITY Telecommunication Taxes deducted, but required ABC to accept their three Resale Certificates, and not to bill any future telecommunication taxes.

ABC then requested the name of the XYZ telecommunications company doing business in Illinois and Illinois Telecommunications number that ABC needed as supporting information in amending nine Illinois monthly returns. XYZ declined to give ABC requested information needed for the refund.

Also, the CITY has indicated that XYZ would need to give ABC their CITY Telecommunication company name and license number would be needed for the refund claim of ABC, and without the information the CITY would not be able to verify that the CITY Telecommunications taxes were being paid by XYZ, and would not be able to refund the prior taxes paid by ABC. Attached are three XYZ Illinois Resale Certificates.

Currently, ABC is not billing XYZ any monthly Illinois telecommunication taxes or CITY telecommunication taxes, and requests an opinion on whether the the [sic] XYZ Resale Certificates are acceptable as non-taxable, if ABC is audited by Illinois.

Please send a written opinion to: NAME. We are looking for an opinion on whether the XYZ Certificates of Resale are acceptable by the Illinois Department of Revenue under the circumstances described.

DEPARTMENT'S RESPONSE:

The act of privilege or originating or receiving telecommunications in the State of Illinois shall not be made tax-free on the ground of being a sale for resale unless the person has an active Telecommunications Tax resale number from the Department and furnishes that number to the retailer in connection with certifying to the retailer that any sale to such person is nontaxable because of being a sale for resale. See 35 ILCS 630/8. Sales Tax resale numbers may not be used to document sales for resale of telecommunications.

Telecommunications Excise Tax liability would be incurred on all purchases of telecommunications originating or received in Illinois prior to the Telecommunications Tax resale number being issued by the Department. See 35 ILCS 630/8. Once a Telecommunications Tax resale number has been issued, any purchases of telecommunications by that customer after that date must include the customer's Telecommunication Tax resale number in order to garner the Telecommunications Tax resale exemption.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

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